

**Statement of
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Department of the Interior
Senate Energy and Natural Resources Committee
Subcommittee on Public Lands and Forests**

**S. 526, Mohave Valley Land Conveyance Act of 2011
May 18, 2011**

Thank you for the opportunity to testify on S. 526, the Mohave Valley Land Conveyance Act of 2011, which proposes to transfer 315 acres of public lands managed by the Bureau of Land Management (BLM) to the Arizona Game and Fish Department (AGFD) for use as a public shooting range. The BLM supports the goals of S. 526 but does not support the legislation as currently drafted. BLM is working with local governments and tribes to resolve land tenure issues. BLM's decision to authorize the land transfer included important mitigation measures which are not in the current legislation.

For the past ten years, the BLM has been working with the AGFD, the Fort Mojave Indian Tribe, the Hualapai Tribe, and the public to find appropriate lands for a public shooting range within the Mohave Valley in Arizona. On February 10, 2010, the BLM made the decision to authorize the transfer of BLM lands to the AGFD (through the Recreation and Public Purposes Act of 1926, as amended, 43 U.S.C. 869 et seq.; R&PP) for use as a public shooting range. The decision, which is consistent with the goals of S. 526, provides a safe, designated shooting environment for the public and includes stipulations designed to respect the traditional beliefs of the Fort Mojave and Hualapai Tribes. The BLM will continue working with interested parties as we move forward with authorizing the shooting range.

Background

In 1999, the AGFD first submitted an application to the BLM for development of a public shooting range on BLM-managed lands in Mohave County, near Bullhead City in northwestern Arizona. As a result, the BLM began working with the AGFD and other interested parties to assess appropriate lands to transfer to the AGFD for the purposes of a shooting range under the R&PP.

The BLM evaluated the AGFD's application through an environmental assessment (EA) and considered numerous alternative locations throughout the Mohave Valley. The evaluation process was conducted with full public and tribal participation. There is an identified need for a designated public shooting range in this region because of the lack of a nearby facility, the amount of dispersed recreational shooting occurring on public and private lands raising public safety concerns, and the associated natural resource impacts from spent ammunition and associated waste.

In 2002, the BLM began consultations with the Fort Mojave Indian Tribe and the Hualapai Tribe. In 2003, the BLM initiated consultation with the Arizona State Historic Preservation Officer (SHPO); and in 2006, the BLM initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP). These consultations, as required by Section 106 of the National Historic Preservation Act and other authorities, ensure Federal agencies consider the effects of their actions on historic properties, and provide the ACHP and SHPO an opportunity to comment on Federal projects prior to implementation.

In addition to the Section 106 consultation process, the BLM initiated a year-long Alternative Dispute Resolution (ADR) process in 2004 to help identify issues, stakeholder perspectives, and additional alternatives to meet the criteria for a safe and effective public shooting range in the Mohave Valley. However, the ADR process failed to reconcile differences between several consulting parties regarding a proposed location.

In 2006, as part of continued Section 106 consultation with the ACHP, the BLM initiated site visits by the concerned parties and also continued efforts to identify alternative sites. Unfortunately, despite these efforts, the BLM was unable to reach an agreement with the consulted Tribes on any area within the Mohave Valley that the Tribes would find acceptable for a shooting range. The Tribes maintained their position that there is no place suitable within the Mohave Valley, which encompasses approximately 140 square miles between Bullhead City, Arizona, and Needles, California.

Through the EA process, the BLM identified the Boundary Cone Road alternative to be the preferred location. Boundary Cone Butte, a highly visible mountain on the eastern edge of the Mohave Valley, lies approximately 3 miles east of the Boundary Cone Road site, and is of cultural, religious, and traditional importance to both the Fort Mojave Indian Tribe and the Hualapai Tribe. In an effort to address the primary concerns expressed by the Tribes over visual and sound issues, the BLM and AGFD developed a set of potential mitigation measures. Again, there was a failure to agree between the consulting parties on possible mitigation. In the end, the BLM formally terminated the Section 106 process with the ACHP in September 2008. In November 2008, ACHP provided their final comments in a letter from the Chairman of the ACHP to then-Secretary of the Interior Kempthorne.

Although the Section 106 process was terminated, the BLM continued government-to-government consultations with the Tribes. In May of 2009, the BLM met with the Chairman of the Fort Mojave Indian Tribe, the AGFD, and the Tri-State Shooting Club in a renewed effort to find a solution. On February 3, 2010, after continued efforts to reach a mutually agreeable solution, the BLM presented the decision to approve the shooting range to the Fort Mojave Indian Tribe and the AGFD. The final decision included mitigation measures to address the concerns of the Tribes such as reducing the amount of actual ground disturbance; reducing noise levels with berm construction; monitoring and annual reporting on noise levels; and fencing to avoid culturally sensitive areas. The Secretary has the authority to take action to revert title to the land covered by the proposed R&PP patent if the AGFD fails to comply with mitigation measures. The final decision to amend the Kingman Resource Management Plan and dispose of the lands through the R&PP was signed on February 10, 2010.

The BLM decision was appealed to the Interior Board of Land Appeals (IBLA) on February 23, 2010, by a private landowner near the proposed shooting range; and on March 15, 2010, a joint appeal by the Fort Mojave Indian Tribe and Hualapai Tribe was filed. The IBLA dismissed the appeal of the private landowner on July 29, 2010. The IBLA issued a stay of the BLM decision on April 15, 2010, at the request of the Tribes. A final decision by the IBLA on the Tribes' appeal was issued on December 7, 2010 (180 IBLA 158). The IBLA affirmed the BLM's decisions and determined that the BLM had taken a "hard look" at the impacts of conveying public lands to the AGFD for a shooting range. The IBLA decision stated that the EA had an appropriate range of alternatives and the environmental consequences were insignificant or if significant could be reduced or eliminated by mitigation. The IBLA also confirmed that the BLM complied with National Historic Preservation Act obligations. This decision allows the BLM to move forward in conveying the public lands to the AGFD.

On December 21, 2010, the BLM informed the AGFD of the next steps for processing the administrative action of conveying the land for the shooting range. The AGFD is required to: (1) purchase the mineral estate or obtain a non-development agreement for the Santa Fe Railroad mineral estate (390 acres) under the disposal and buffer lands; (2) provide a detailed Plan of Development (Plan) that addresses the mitigation measures found in the BLM's Decision Record; (3) develop a Cooperative Management Agreement with the BLM for the 470-acre buffer area; and (4) provide the funds (\$3,150) for purchase of the property. It is the BLM's understanding that the AGFD is negotiating a purchase agreement to acquire the mineral estate. The AGFD also submitted a draft Plan and is currently revising the Plan to address the additional guidance provided by the BLM, including the request to incorporate the Cooperative Management Agreement into the Plan.

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S. 526 provides for the conveyance to the AGFD of all right, title, and interest to the approximately 315 acres of BLM-managed public lands as identified in the final decision signed by the BLM on February 10, 2010, to be used as a public shooting range. Furthermore, the legislation makes a determination that the February 10, 2010, Record of Decision is "final and determined to be legally sufficient" and "not be subject to judicial review . . ." The bill also provides that the lands must be used for purposes consistent with the R&PP Act and provides for an appropriate reversionary clause.

As a matter of policy, the BLM supports working with local governments, tribes, and other stakeholders to resolve land tenure issues that advance worthwhile public policy objectives. The BLM acknowledges the lands proposed for development as a shooting range are of cultural, religious, and traditional significance to the Tribes which is why we support important mitigation measures. The bill as drafted does not include such mitigation measures. In general, the BLM supports the goals of the proposed conveyance, as it is similar to the transfer the BLM has been addressing through its administrative process for the last ten years. As noted, a decision has been made through the BLM administrative process and the IBLA affirmed the BLM decision, thereby dismissing the Tribes appeal that the BLM did not comply with various environmental laws. Under the provisions of S. 526, judicial review would be prohibited. The BLM will continue working to complete the conveyance of the lands to the AGFD for a shooting range.

If the Congress chooses to legislate this conveyance, the BLM would recommend some improvements to the bill, including changes to section 4(b), the incorporation of mitigation measures to address Tribal concerns, protection of valid existing rights, and an appropriate map reference.

Conclusion

Thank you for the opportunity to testify. Resolution of this conveyance in a manner that is acceptable to all parties has been an important goal of the BLM as evidenced by more than ten years of negotiations and review. The BLM is confident the issued decision addresses the concerns of the interested parties, while providing critical recreational opportunities and benefits to the public.